UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,321	12/12/2003	Alain Azagury	IL920030052US1	2268

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ART UNIT	PAPER NUMBER
2443	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

		Application No.	Applicant(s)
Office Action Summary		10/735,321	AZAGURY ET AL.
		Examiner	Art Unit	
		DAVID E. ENGLAND	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>03 April 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
     closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>38</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>38</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413)
                                                       Paper No(s)/Mail Date. _____

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application

3)☒ Information Disclosure Statement(s) (PTO/SB/08)   6)☐ Other: _____
    Paper No(s)/Mail Date <u>04/15/2005</u>.

U.S. Patent and Trademark Office

PTOL-326 (Rev. 08-06)   **Office Action Summary**   Part of Paper No./Mail Date 20081022

DETAILED ACTION

1.   Claim 38 is presented for examination.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees.   A nonstatutory obviousness-type double patenting rejection
is appropriate where the conflicting claims are not identical, but at least one examined
application claim is not patentably distinct from the reference claim(s) because the examined
application claim is either anticipated by, or would have been obvious over, the reference
claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re
Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re
Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163
USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may
be used to overcome an actual or provisional rejection based on a nonstatutory double patenting
ground provided the conflicting application or patent either is shown to be commonly owned
with this application, or claims an invention made as a result of activities undertaken within the
scope of a joint research agreement.
        Effective January 1, 1994, a registered attorney or agent of record may sign a terminal
disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR
3.73(b).

3.   Claim 38 is provisionally rejected on the ground of nonstatutory double patenting over

claims 1 – 7 and 34 – 36 of copending Application No. 12/062211. This is a provisional double

patenting rejection since the conflicting claims have not yet been patented.

        The subject matter claimed in the instant application is fully disclosed in the referenced

copending application and would be covered by any patent granted on that copending application

since the referenced copending application and the instant application are claiming common

subject matter, as follows:

Application 10/735321.	Application 12/062211
38. A computer system, comprising:	1. A computer system, comprising:
a local area network (LAN);	a local area network (LAN);
a plurality of computers, each of the computers comprising at least one central processing unit (CPU) and a LAN interface, which is coupled to communicate over the LAN, while the computers comprise no on-board user interface controllers;	a plurality of computers, each of the computers comprising at least one central processing unit (CPU) and a LAN interface, which is coupled to communicate over the LAN, while the computers comprise no on-board user interface controllers; and
a console, which comprises user input and output devices and is coupled to communicate over the LAN so as to convey an input received via the user input device over the LAN to each of the computers, and to receive an output generated by each of the computers over the LAN for display using the user output device; and	a console, which comprises user input and output devices and is coupled to communicate over the LAN so as to convey an input received via the user input device over the LAN to each of the computers, and to receive an output generated by each of the computers over the LAN for display using the user output device.
wherein the computers and the console are arranged to communicate over the LAN by transmitting Layer 2 data frames,	2. The system according to claim 1, wherein the computers and the console are arranged to communicate over the LAN by transmitting

	Layer 2 data frames.
wherein the computers and the console are arranged to convey the input and the output by tunneling over Layer 2 on the LAN,	3. The system according to claim 2, wherein the computers and the console are arranged to convey the input and the output by tunneling over Layer 2 on the LAN.
wherein the computers and the console are arranged to encapsulate the input and output in any of Internet Protocol (IP) packets for transmission over the LAN and using an application-layer protocol,	The system according to claim 2, wherein the computers and the console are arranged to encapsulate the input and output in Internet Protocol (IP) packets for transmission over the LAN. 5. The system according to claim 2, wherein the computers and the console are arranged to encapsulate the input and output using an application-layer protocol.
an input/output (I/O) device, coupled to the LAN, wherein the computers are arranged to transmit I/O commands over the LAN to the I/O device and comprise no on-board I/O device controllers,	6. The system according to claim 1, and further comprising an input/output (I/O) device, coupled to the LAN, and wherein the computers are arranged to transmit I/O commands over the LAN to the I/O device and comprise no on-board I/O device controllers.
wherein each of the computers comprises an	7. The system according to claim 6, wherein

emulation processor, which is coupled to trap the I/O commands from the at least one CPU while emulating the I/O device, and to encapsulate the I/O commands in data frames for transmission over the LAN to the I/O device, so as to cause the I/O device to fulfill the commands,	each of the computers comprises an emulation processor, which is coupled to trap the I/O commands from the at least one CPU while emulating the I/O device, and to encapsulate the I/O commands in data frames for transmission over the LAN to the I/O device, so as to cause the I/O device to fulfill the commands.
wherein the emulation processor is arranged to encapsulate the I/O commands in any of Ethernet frames, Internet Protocol (IP) packets, and using an application-layer protocol.	34. The method according to claim 33, wherein transmitting the Layer 2 data frames comprises conveying the I/O commands by encapsulating the I/O commands in Internet Protocol (IP) packets for transmission over the LAN. 35. The method according to claim 33, wherein transmitting the Layer 2 data frames comprises conveying the I/O commands by encapsulating the I/O commands using an application-layer protocol. 36. The method according to claim 33, wherein transmitting the Layer 2 data frames comprises

	transmitting Ethernet frames.

Furthermore, there is no apparent reason why applicant would be prevented from

presenting claims corresponding to those of the instant application in the other copending

application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP

§ 804.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dai

(2005/0049848) in view of Autrey et al. (5774695), hereinafter Autrey.

6.   Referencing claim 38, as closely interpreted by the Examiner, Dai teaches a computer

system, comprising:

7.   a local area network (LAN), (e.g., ¶ 0027);

8.   a plurality of computers, each of the computers comprising at least one central processing

unit (CPU) and a LAN interface, which is coupled to communicate over the LAN, while the

computers comprise no on-board user interface controllers, (e.g., ¶ 0031 & Figures 1 – 3, The

server is controlled through the network from another node.);

9.   a console, which comprises user input and output devices and is coupled to communicate

over the LAN so as to convey an input received via the user input device over the LAN to each

of the computers, and to receive an output generated by each of the computers over the LAN for

display using the user output device, (e.g., ¶ 0029 & Figure 2 & ¶ 0041, "API"); and

10.   an input/output (I/O) device, coupled to the LAN, (e.g., ¶ 0029 & Figure 2),

11.   wherein the computers and the console are arranged to communicate over the LAN by

transmitting Layer 2 data frames, (e.g., ¶ 0029 VPN),

12.   wherein the computers and the console are arranged to convey the input and the output by

tunneling over Layer 2 on the LAN, (e.g., ¶ 0029 VPN),

13.   wherein the computers are arranged to transmit I/O commands over the LAN to the I/O

device and comprise no on-board I/O device controllers, (e.g., ¶ 0031 & Figures 1 – 3, The

server is controlled through the network from another node.),

14.   wherein each of the computers comprises an emulation processor, which is coupled to

trap the I/O commands from the at least one CPU while emulating the I/O device, and to

encapsulate the I/O commands in data frames for transmission over the LAN to the I/O device,

so as to cause the I/O device to fulfill the commands, (e.g., ¶ 0033 – 0035, 0054),

15.   wherein the emulation processor is arranged to encapsulate the I/O commands in any of

Ethernet frames, Internet Protocol (IP) packets, (e.g., ¶ 0007), but does not specifically teach

wherein the computers and the console are arranged to encapsulate the input and output in any of

Internet Protocol (IP) packets for transmission over the LAN and using an application-layer

protocol,

16.   wherein the emulation processor is arranged to encapsulate the I/O commands using an application-layer protocol.

17.   Autrey teaches wherein the computers and the console are arranged to encapsulate the input and output in any of Internet Protocol (IP) packets for transmission over the LAN and using an application-layer protocol, (e.g., col. 2, lines 13 – 25 & col. 8, lines 3 – 24s);

18.   wherein the emulation processor is arranged to encapsulate the I/O commands using an application-layer protocol, (e.g., col. 2, lines 13 – 25 & col. 8, lines 3 – 24s). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Autrey with Dai because if one is to test and run a network using an emulation, then one would need to test all layers of the OSI model so a user know that the complete network topology is working correctly and not just one or two layers.

Conclusion

19.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

20.   a.   Tremain U.S. Pub. No. 2002/0069369 discloses Method and apparatus for providing computer services.

21.   b.   Bryson U.S. Pub. No. 20040185777 discloses Portable wireless gateway.

22.   c.   Bryson U.S. Patent No. 7346025 discloses Portable wireless gateway.

23.   d.   Karapetkov et al. U.S. Patent No. 6081836 discloses Method for the transmission of information packets between emulated LANs using address resolution.

24.   e.   Gessel et al. U.S. Patent No. 5889954 discloses Network manager providing advanced interconnection capability.

25.   f.   Margulis et al. U.S. Patent No. 6223149 discloses Non-distributed LAN emulation server redundancy method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. ENGLAND whose telephone number is (571)272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. England
Examiner
Art Unit 2443

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